

OLDAKER LAW GROUP, LLP

ATTORNEYS AT LAW

818 CONNECTICUT AVENUE, NW
SUITE 1100

WASHINGTON, D.C. 20006

(202) 728-1010

FAX: (202) 464-0669

April 5, 2011

Christopher Hughey
Acting General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

RE: MUR 6435

Dear Mr. Hughey:

This letter is in response to your letter dated March 28, 2011 offering Representative Charles Rangel, the Rangel for Congress Committee ("RFC"), the National Leadership PAC ("NLP") and Mr. Basil Paterson, in his capacity as Treasurer to both of these committees, an opportunity to amplify or clarify their response of January 11, 2011. We believe the focus of the Federal Election Commission ("FEC") at this stage in this matter is whether the National Legal & Policy Center's ("Center") complaint is sufficient to satisfy the standard for a complaint required by law and FEC regulations. We believe the complaint is deficient and, therefore, further elaboration is unnecessary.

FEC regulations set forth the requirements for filing a complaint with the FEC. The regulations state, in pertinent part, that a complaint *must contain a recitation of the facts which describe a violation of a statute or regulation* over which the FEC has jurisdiction, and in cases involving statements that are not based on personal knowledge it should be accompanied by an identification of the source of information giving rise to the complainant's belief in the truth of such statements. *See* 11 C.F.R. § 111.4(d). As discussed in our January 11, 2011 response, the Center's complaint fails to recite facts which describe a violation of the statute or any regulation. Instead, the Center's complaint merely observes that NLP made what the Center considers to be sizeable disbursements for legal expenses and then concludes that this in and of itself suggests the law may have been violated. If such a low pleading standard is accepted by the FEC, then any political committee making arguably sizeable disbursements for legal expenses becomes fodder for a complaint and investigation.

In MUR 4960, four FEC Commissioners explained that "[t]he Commission may find reason to believe only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the FECA. Complaints based upon personal knowledge must identify a source of information that reasonably gives rise to a belief in

RECEIVED
FEDERAL ELECTION
COMMISSION

2011 APR -5 PM 3: 55

OFFICE OF GENERAL
COUNSEL

RECEIVED
2011 APR -5 PM 3: 07
FEC MAIL CENTER

RECEIVED

14044394407

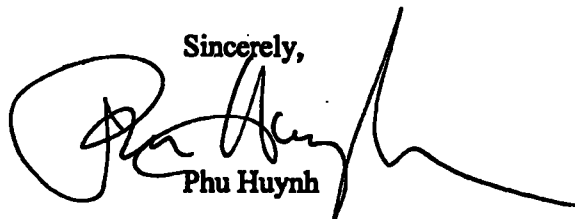
12044364408

the truth of the allegations presented . . .". MUR 6002 (In re Freedom Watch, Inc.), Statement of Reasons of Chairman Petersen and Commissioners Hunter and McGahn (citing MUR 6002 and the Statement of Reasons adopted by Commissioners Mason, Thomas, Sandstrom and Smith). This standard is consistent with those used for motion to dismiss under rule 12(b)(6) of the Federal Rules of Civil Procedure.

The Center's complaint fails to meet this standard, however, stating merely that sizeable disbursements by Rep. Rangel's leadership PAC were made and then speculating that this fact in and of itself indicates that it may be a violation of the law. As explained above, such a standard for a complaint would allow anyone to file a complaint and initiate an investigation against any leadership PAC, including any political committee that reports sizable disbursements to legal fees. Under the theory propounded by the Center, any disbursements that a third party believes to deviate from the norm could give rise to a complaint, including amounts that are too high or too low. It is clear that the Center has no personal or actual knowledge and therefore the complaint should be dismissed.

Given the various inquiries and investigations that Rep. Rangel and his campaign committees have been subjected to in the last several years, it is not unusual that these committees spent considerable amounts on legal fees. Each has been required to produce documents, prepare for and present oral testimony in some form and otherwise prepare for the legal proceedings in which they have been involved, either as a party or non-party. Without any more than mere speculation that sizeable disbursements to legal counsel in and of themselves indicate a violation of the law, the Center's complaint cannot stand. Put another way more consistent with Rule 12(b)(6) of the Federal Rules of Civil Procedure, even if all of the facts in the Center's complaint are taken as true, they do not constitute a violation of federal election law.

Sincerely,



Phu Huynh